

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

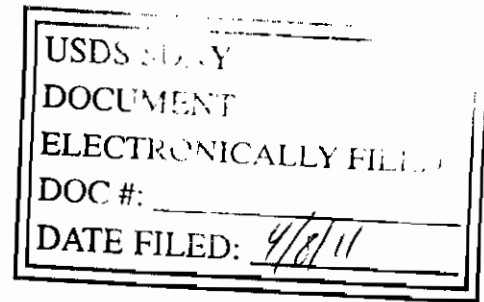
ABDUL-MALIK MUHAMMAD

Plaintiff,

-v-

NEW YORK DEPARTMENT OF CORRECTIONS,
et al.,

Defendants.



No. 10 Civ. 1707 (RJS) (RLE)

ORDER ADOPTING REPORT AND
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

Pro se Plaintiff Abdul-Malik Muhammad filed his Complaint on March 3, 2010, bringing claims pursuant to 42 U.S.C. § 1983 against Defendants Jean Richards, M.D., Deputy Warden Raino Hill, New York Department of Corrections, the New York City Department of Health and Hospital Services, and "Captain Paterson." By Order dated March 30, 2010, this matter was referred to the Honorable Ronald L. Ellis, Magistrate Judge, for general pre-trial purposes and dispositive motions requiring a report and recommendation.

By Order dated March 3, 2011, the Court adopted Magistrate Judge Ellis's February 3, 2011 Report and Recommendation dismissing this action as to Defendants Richards and Hill pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. On March 11, 2011, Judge Ellis issued a second Report and Recommendation recommending dismissal of this action without prejudice against the remaining Defendants, none of whom has yet been served pursuant to Rule 4(m). Pursuant to 28 U.S.C. § 636(b)(1), as amended, and Fed.R.Civ.P. 72(b), the

parties had fourteen (14) days, plus an additional three (3) days, pursuant to Fed.R.Civ.P. 6(d), or a total of seventeen (17) days, *see* Fed.R.Civ.P. 6(a), from the date of Judge Ellis's Report and Recommendation to file written objections. No party has filed objections to the Report, and the time to do so has expired. *Cf. Frank v. Johnson*, 968 F.2d 298 (2d Cir. 1993).

When no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record. *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005); *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). After reviewing the record, the Court finds that Judge Ellis's Report and Recommendation is not facially erroneous. Accordingly, the Court adopts the Report in its entirety, and for the reasons set forth therein, dismisses the Complaint as to Defendants New York Department of Corrections, the New York City Department of Health and Hospital Services, and "Captain Paterson" without prejudice. The Clerk of the Court is respectfully directed to mark this case closed.

SO ORDERED.

Dated: April 7, 2011
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

A copy of this Order has been mailed to:

Abdul-Malik Muhammad
09A5184
Cape Vincent Correctional Facility
Rt. 12E, P.O. Box 739
Cape Vincent, New York 13618